

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL NO. _____</b>
<b>v.</b>	<b>:</b>	<b>DATE FILED: _____</b>
<b>JOSEPH C. MODERSKI</b>	<b>:</b>	<b>VIOLATIONS:</b>
	<b>:</b>	<b>26 U.S.C. § 7201 (tax evasion - 1 count)</b>
	<b>:</b>	<b>26 U.S.C. § 7206(2) (procuring, aiding, and</b>
	<b>:</b>	<b>assisting in the filing of false tax returns -</b>
	<b>:</b>	<b>12 counts)</b>
	<b>:</b>	<b>18 U.S.C. § 1341 (mail fraud - 10 counts)</b>
	<b>:</b>	<b>18 U.S.C. § 2 (aiding and abetting)</b>

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**INDICTMENT**

**COUNT ONE**

**TAX EVASION**

**THE GRAND JURY CHARGES THAT:**

At all times material to this indictment:

1. Defendant JOSEPH C. MODERSKI operated a company called J.C. Moderski, Inc., whose primary business was marketing defendant MODERSKI's services to companies and individuals interested in securing and maintaining display advertising business in the Philadelphia metropolitan area and in New Jersey. Defendant MODERSKI also sold his services to companies and individuals interested in securing various types of business at the Philadelphia International Airport. Defendant MODERSKI was the 100% shareholder of J.C. Moderski, Inc.

2. J.C. Moderski, Inc. was a subchapter-S corporation, which was required to file an annual federal income tax return, Form 1120S. Under the federal income tax laws, J.C.

Moderski, Inc. was not required to pay corporate income taxes. Instead, the net profits of J.C. Moderski, Inc., while not taxed to the corporation, were passed through to defendant MODERSKI as personal income, which defendant MODERSKI was required to report on his IRS Form 1040 personal income tax returns as income subject to individual income tax.

3. Defendant JOSEPH C. MODERSKI received income from numerous businesses and individuals both indirectly through payments to J.C. Moderski, Inc. and directly to himself. This income included the following payments from the following businesses and individuals:

<u>Payor</u>	<u>Nature of Payments</u>
Eller Media/Clear Channel	Consulting fees and reimbursement of expenses
SkySites/JCDecaux	Consulting fees and reimbursement of expenses
Interstate Outdoor Advertising	Consulting fees and reimbursement of expenses
Peak Media Philadelphia	Consulting fees and reimbursement of expenses
Roe Fabricators	Consulting fees
TKO Visual Communications	Interest on loans to TKO Visual Communications
Ramada Inn (Philadelphia International Airport location)	Advertising fees
Bryn Mawr Landscaping	Business referral fees
Terry Crockett Architects	Business referral fees
Ridley Excavating	Business development fees

4. Defendant JOSEPH C. MODERSKI received income for his consulting services in the following forms: checks to J.C.Moderski, Inc.; checks to Joseph Moderski; checks from the Ramada Inn (Philadelphia Airport) payable to a third party that defendant MODERSKI fraudulently deposited into his own bank accounts or to the account of a third party; payments directly to credit card accounts of defendant MODERSKI; and payments to third parties on behalf of defendant MODERSKI.

5. Defendant JOSEPH C. MODERSKI maintained two separate checking accounts at FirsTrust Bank: one account in the name of J.C. Moderski, Inc. (“the business account”) and a second account in the name Joseph C. Moderski (“the personal account”). Defendant MODERSKI deposited payments for his consulting services into both his business and personal checking accounts. Defendant MODERSKI deposited only a portion of the checks to J.C. Moderski, Inc. into the business account.

6. From in or about January 1999 through April 15, 2005, in the Eastern District of Pennsylvania and elsewhere, defendant

**JOSEPH C. MODERSKI**

willfully engaged in a continuing attempt to evade and defeat a large part of the tax due and owing by him and his spouse to the United States of America for the calendar years 1999 through 2004, through various means. As a result of this course of conduct, defendant MODERSKI evaded the payment of approximately \$600,000 in federal income taxes.

7. As part of this attempt to evade federal income taxes, defendant JOSEPH C. MODERSKI withheld from the accountants he hired to prepare his business and personal tax returns information that would have identified approximately two-thirds of the gross receipts to

J.C. Moderski, Inc. and income to defendant MODERSKI personally. Defendant MODERSKI did so by providing the accountants only with records of the business account, which reflected only approximately one-third of the gross receipts to J.C. Moderski, Inc. Defendant MODERSKI withheld from the accountants income he had received in the following forms: business receipts that he deposited into his personal bank account, payments issued directly to his credit card account, checks issued by the Ramada Inn (Philadelphia Airport location) that he deposited into his personal checking account or the account of a third party; and checks issued to third parties on his behalf.

8. As part of his attempt to evade federal income taxes, defendant JOSEPH C. MODERSKI committed, among others, the following affirmative acts:

a. In or about early 2000, defendant MODERSKI provided his accountant with his business bank records for the accountant to use in preparing his business and personal tax returns, representing that these records contained all of the gross receipts for the year 1999, amounting to \$143,287, to J.C. Moderski, Inc. Defendant MODERSKI withheld from his accountant records showing that J.C. Moderski, Inc. had received additional gross receipts and that he had received additional income totalling more than \$250,000 in 1999.

b. In or about April 2000, defendant MODERSKI filed a business tax return for the year 1999 that understated the gross receipts of J.C. Moderski, Inc. by more than \$250,000 and filed a personal tax return for the year 1999 that understated his personal income by more than \$250,000.

c. In or about early 2001, defendant MODERSKI provided his accountant with his business bank records for the accountant to use in preparing his business and personal tax returns, representing that these records contained all of the gross receipts for the year 2000, amounting to \$122,750, to J.C. Moderski, Inc. Defendant MODERSKI withheld from his accountant records showing that J.C. Moderski, Inc. had received additional gross receipts and that he had received additional income totalling more than \$350,000 in 2000.

d. In or about April 2001, defendant MODERSKI filed a business tax return for the year 2000 that understated the gross receipts of J.C. Moderski, Inc. by more than \$350,000 and filed a personal tax return for the year 2000 that understated his personal income by more than \$350,000.

e. In or about early 2002, defendant MODERSKI provided his accountant with his business bank records for the accountant to use in preparing his business and personal tax returns, representing that these records contained all of the gross receipts for the year 2001, amounting to \$179,376, to J.C. Moderski, Inc. Defendant MODERSKI withheld from his accountant records showing that J.C. Moderski, Inc. had received additional gross receipts and that he had received additional income totalling more than \$350,000 in 2001.

f. In or about April 2002, defendant MODERSKI filed a business tax return for the year 2001 that understated the gross receipts of J.C. Moderski, Inc. by more than \$350,000 and filed a personal tax return for the year 2001 that understated his personal income by more than \$350,000.

g. In or about early 2003, defendant MODERSKI provided his accountant with his business bank records for the accountant to use in preparing his business and personal tax returns, representing that these records contained all of the gross receipts for the year 2002 amounting to \$183,016 to J.C. Moderski, Inc. Defendant MODERSKI withheld from his accountant records showing that J.C. Moderski, Inc. had received additional gross receipts and that he had received additional income totalling more than \$350,000 in 2002.

h. In or about April 2003, defendant MODERSKI filed a business tax return for the year 2002 that understated the gross receipts of J.C. Moderski, Inc. by more than \$350,000 and filed a personal tax return for the year 2002 that understated his personal income by more than \$350,000.

i. In or about early 2004, defendant MODERSKI provided his accountant with his business bank records for the accountant to use in preparing his business and personal tax returns, representing that these records contained all of the gross receipts for the year 2003 amounting to \$108,971, to J.C. Moderski, Inc. Defendant MODERSKI withheld from his accountant records showing that J.C. Moderski, Inc. had received additional gross receipts and that he had received additional income totalling more than \$350,000 in 2003.

j. In or about April 2004, defendant MODERSKI caused to be filed a business tax return for the year 2003 that understated the gross receipts of J.C. Moderski, Inc. by more than \$350,000 and caused to be filed a personal tax return for the year 2003 that understated his personal income by more than \$350,000.

k. In or about early 2005, defendant MODERSKI provided his accountant with his business bank records for the accountant to use in preparing his business and personal tax returns, representing that these records contained all of the gross receipts for the year 2004, amounting to \$76,456, to J.C. Moderski, Inc. Defendant MODERSKI withheld from his accountant records showing that J.C. Moderski, Inc. had received additional gross receipts and that he had received additional income totalling more than \$100,000 in 2004.

l. In or about April 2005, MODERSKI caused to be filed a business tax return for the year 2004 that understated the gross receipts of J.C. Moderski, Inc. by more than \$100,000 and caused to be filed a personal tax return for the year 2004 that understated his personal income by more than \$100,000.

All in violation of Title 26, United States Code, Section 7201.

**COUNT TWO**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
1999 J.C. MODERSKI, INC. RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 18, 2000, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Income Tax Return for S Corporation, Form 1120S, for J.C. Moderski, Inc., for the calendar year 1999, which was false and fraudulent as to a material matter, in that defendant MODERSKI falsely reported gross receipts for J.C. Moderski, Inc. in the amount of \$143,287, when in fact, as he well knew, the true gross receipts totalled in excess of \$400,000.

In violation of Title 26, United States Code, Section 7206(2).



**COUNT THREE**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
1999 PERSONAL RETURN**

On or about April 15, 2000, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Individual Income Tax Return, Form 1040, for himself and his wife, for the calendar year 1999, which was false and fraudulent as to a material matter, in that the return reported adjusted gross income of \$73,827, which was substantially less than the true adjusted gross income that defendant MODERSKI received through his operation of J.C. Moderski, Inc. and his other income.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT FOUR**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
2000 J.C. MODERSKI, INC. RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 17, 2001, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Income Tax Return for S Corporation, Form 1120S, for J.C. Moderski, Inc., for the calendar year 2000, which was false and fraudulent as to a material matter, in that defendant MODERSKI falsely reported gross receipts for J.C. Moderski, Inc. in the amount of \$122,750, when in fact, as he well knew, the true gross receipts totalled in excess of \$475,000.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT FIVE**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
2000 PERSONAL RETURN**

On or about April 15, 2001, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Individual Income Tax Return, Form 1040, for himself and his wife, for the calendar year 2000, which was false and fraudulent as to a material matter, in that the return reported adjusted gross income of \$72,950, which was substantially less than the true adjusted gross income that defendant MODERSKI received through his operation of J.C. Moderski, Inc. and his other income.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT SIX**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
2001 J.C. MODERSKI, INC. RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 15, 2002, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Income Tax Return for S Corporation, Form 1120S, for J.C. Moderski, Inc., for the calendar year 2001, which was false and fraudulent as to a material matter, in that defendant MODERSKI falsely reported gross receipts for J.C. Moderski, Inc. in the amount of \$179,376, when in fact, as he well knew, the true gross receipts totalled in excess of \$500,000.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT SEVEN**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
2001 PERSONAL RETURN**

On or about April 15, 2002, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Individual Income Tax Return, Form 1040, for himself and his wife, for the calendar year 2001, which was false and fraudulent as to a material matter, in that the return reported adjusted gross income of \$78,929, which was substantially less than the true adjusted gross income that defendant MODERSKI received through his operation of J.C. Moderski, Inc. and his other income.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT EIGHT**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
2002 J.C. MODERSKI, INC. RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about June 9, 2003, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Income Tax Return for S Corporation, Form 1120S, for J.C. Moderski, Inc., for the calendar year 2002, which was false and fraudulent as to a material matter, in that defendant MODERSKI falsely reported gross receipts for J.C. Moderski, Inc. in the amount of \$183,016, when in fact, as he well knew, the true gross receipts totalled in excess of \$500,000.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT NINE**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
2002 PERSONAL RETURN**

On or about June 6, 2003, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Individual Income Tax Return, Form 1040, for himself and his wife, for the calendar year 2002, which was false and fraudulent as to a material matter, in that the return reported adjusted gross income of \$77,178, which was substantially less than the true adjusted gross income that defendant MODERSKI received through his operation of J.C. Moderski, Inc. and his other income.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT TEN**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
2003 J.C. MODERSKI, INC. RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 8, 2004, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Income Tax Return for S Corporation, Form 1120S, for J.C. Moderski, Inc., for the calendar year 2003, which was false and fraudulent as to a material matter, in that defendant MODERSKI falsely reported gross receipts for J.C. Moderski, Inc. in the amount of \$108,971, when in fact, as he well knew, the true gross receipts totalled in excess of \$400,000.

In violation of Title 26, United States Code, Section 7206(2).



**COUNT ELEVEN**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
2003 PERSONAL RETURN**

On or about April 15, 2004, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Individual Income Tax Return, Form 1040, for himself and his wife, for the calendar year 2003, which was false and fraudulent as to a material matter, in that the return reported adjusted gross income of \$77,189, which was substantially less than the true adjusted gross income that defendant MODERSKI received through his operation of J.C. Moderski, Inc. and his other income.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT TWELVE**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
2004 J.C. MODERSKI, INC. RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 7, 2005 in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Income Tax Return for S Corporation, Form 1120S, for J.C. Moderski, Inc., for the calendar year 2004, which was false and fraudulent as to a material matter, in that defendant MODERSKI falsely reported gross receipts for J.C. Moderski, Inc. in the amount of \$76,456, when in fact, as he well knew, the true gross receipts totalled approximately \$200,000.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT THIRTEEN**

**PROCURING, AIDING AND ASSISTING FALSE TAX RETURNS --  
2004 PERSONAL RETURN**

On or about April 15, 2005, in the Eastern District of Pennsylvania and elsewhere,  
defendant

**JOSEPH C. MODERSKI**

willfully aided and assisted in, and advised the preparation and presentation, to the Internal Revenue Service, of United States Individual Income Tax Return, Form 1040, for himself and his wife, for the calendar year 2004, which was false and fraudulent as to a material matter, in that the return reported adjusted gross income of \$73,782, which was substantially less than the true adjusted gross income that defendant MODERSKI received through his operation of J.C. Moderski, Inc. and his other income.

In violation of Title 26, United States Code, Section 7206(2).

**COUNTS FOURTEEN THROUGH TWENTY-THREE**

**MAIL FRAUD**

**THE GRAND JURY FURTHER CHARGES THAT:**

At all times material to this indictment:

1. The Philadelphia International Airport (“PIA”) was owned and operated by the City of Philadelphia. The PIA, a division of the Philadelphia Department of Commerce, was managed by the Director of Aviation, a city employee hired by the Mayor of Philadelphia.

2. JCDecaux SA (formerly known as Decaux SA) (“JCDecaux”) was a French-based, international media company with airport advertising contracts throughout the world and the United States. When, in or about June 1999, JCDecaux acquired the shares of the parent company of an airport advertising company called Sky Sites, Inc. (“Sky Sites”), Sky Sites became a wholly-owned United States subsidiary of JCDecaux. Thereafter, Sky Sites transacted business in the names Sky Sites, JCDecaux Skysites, and JCDecaux Airport Inc., all of which are collectively referred to hereafter as JCDecaux. In or about 1998, Sky Sites acquired the assets of Ackerley Airport Advertising (“Ackerley”), thereby acquiring Ackerley’s indoor airport advertising contracts in dozens of United States airports, including a lucrative contract at the PIA, where Ackerley had held the contract to furnish and maintain indoor advertising displays in the PIA Terminals A through E since approximately 1987.

3. Ackerley, then Sky Sites, then JCDecaux, furnished and maintained indoor, back-lit advertising displays in airports around the United States and sold advertising space on these displays to businesses. Ackerley, then Sky Sites, then JCDecaux secured the right

to furnish and sell its advertising displays by entering into concession contracts with states, municipalities, and public agencies with oversight over the airports.

4. Under the terms of the Ackerley, then Sky Sites, then JCDecaux contract with the PIA, the company was required to pay annually to the City of Philadelphia the greater of 50% of all gross advertising revenue it received or a guaranteed fee of \$400,000. The contract provided that both the percentage fee and the guaranteed annual fee were due and payable monthly. At the beginning of each month, the company sent to the City of Philadelphia a check for \$33,333.33, which amounted to one-twelfth of the \$400,000 minimum annual fee. At the end of each month, the company calculated its total advertising revenue for that month and then sent to the City of Philadelphia a payment totalling 50% of the amount by which its advertising revenues exceeded the minimum guaranteed fee, along with a report to the PIA listing all of its advertisers and the revenue it had received from each advertiser for that month.

5. Defendant JOSEPH C. MODERSKI was a consultant paid by Ackerley, then Sky Sites, then JCDecaux to assist the company in obtaining new business and maintaining and servicing existing business at the PIA. As the company's consultant to the PIA, defendant MODERSKI received a fee of several thousand dollars per month and additional reimbursement for expenses.

6. From at least January 1995 through in or about May 2003, defendant  
**JOSEPH C. MODERSKI,**  
devised and intended to devise a scheme to defraud Ackerley, Sky Sites, JCDecaux and the City of Philadelphia, and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

## **MANNER AND MEANS**

It was part of the scheme that:

7. Defendant JOSEPH C. MODERSKI fabricated false and fraudulent invoices on letterhead of TKO Visual Communications, Inc. purporting to charge the Ramada Inn (Philadelphia International Airport location) (hereafter “Ramada Inn”) \$1,800 per month for the Ramada Inn’s advertising at the PIA.

8. Defendant JOSEPH C. MODERSKI delivered the false and fraudulent invoices described above to staff members of the Ramada Inn.

9. Defendant JOSEPH C. MODERSKI obtained from staff members of the Ramada Inn checks in payment of the false and fraudulent invoices described above.

10. Defendant JOSEPH C. MODERSKI deposited the Ramada Inn checks payable to TKO Visual Communications that he had fraudulently obtained into bank accounts he controlled, or into the bank account of a third party not authorized to receive payments for advertising by the Ramada Inn at the PIA.

11. Defendant JOSEPH C. MODERSKI concealed from representatives at Ackerley, Sky Sites, and JCDecaux his collection and misappropriation of advertising revenue from the Ramada Inn.

12. Defendant JOSEPH C. MODERSKI caused representatives of Ackerley, Sky Sites, and JCDecaux to omit from the companies’ monthly sales reports to the PIA any mention of advertising by or advertising revenue obtained from the Ramada Inn, consequently depriving both the company and the City of Philadelphia of approximately \$180,000 in fees paid by the Ramada Inn for advertising on phone boards at the PIA.

13. On or about the following dates, in the Eastern District of Pennsylvania and elsewhere, defendant

**JOSEPH C. MODERSKI,**

for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, knowingly caused to be delivered by United States mail according to the directions thereon, the following items:

<b>COUNT</b>	<b>DATE</b>	<b>ITEM</b>
14	02/05/02	Sales report for January 2002 and \$34,046.00 check from JCDecaux to City of Philadelphia
15	03/06/02	Sales report for February 2002 and \$46,891.02 check from JCDecaux to City of Philadelphia
16	04/03/02	Sales report for March 2002 and \$55,151.67 check from JCDecaux to City of Philadelphia
17	05/07/02	Sales report for April 2002 and \$66,760.84 check from JCDecaux to City of Philadelphia
18	06/04/02	Sales report for May 2002 and \$194,560.85 check from JCDecaux to City of Philadelphia
19	06/28/02	Sales report for June 2002 and \$55,091.73 check from JCDecaux to City of Philadelphia
20	08/01/02	Sales report for July 2002 and \$52,269.76 check from JCDecaux to City of Philadelphia
21	09/05/02	Sales report for August 2002 and \$67,534.03 check from JCDecaux to City of Philadelphia
22	10/04/02	Sales report for September 2002 and \$60,796.97 check from JCDecaux to City of Philadelphia

<b>COUNT</b>	<b>DATE</b>	<b>ITEM</b>
23	10/30/02	Sales report for October 2002 and \$61,935.71 check from JCDecaux to City of Philadelphia

All in violation of Title 18, United States Code, Sections 1341 and 2.

**A TRUE BILL:**

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**GRAND JURY FOREPERSON**

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**PATRICK L. MEEHAN**  
**UNITED STATES ATTORNEY**